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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/461,138	06/05/95	KAI SER	A 21684

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31M1/0524

EXAMINER	
KRAMER, D	
ART UNIT	PAPER NUMBER
	3102 3

DATE MAILED:

05/24/96

**Please find below a communication from the EXAMINER in charge of this application.**

Commissioner of Patents

A shortened statutory period for response to this action  
is set to expire three months(s), or thirty days,  
whichever is longer, from the date of this communication.

<b>Office Action Summary</b>	Application No. <b>08/461,138</b>	Applicant(s) <b>Kaiser</b>
	Examiner <b>Dean J. Kramer</b>	Group Art Unit <b>3102</b>

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 8-10 is/are allowed.

Claim(s) 1-7 and 11-20 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3102

1. Claims 1-7 and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 23 and 24 and claim 15, lines 7-9 appear to be incorrect in that they recite that the second and third tong elements are pivotally attached, but from the specification and drawings, the second tong element (24) and third tong element (32) are only slidingly attached at the bar engaging bore and actuating bar.

Further, in claim 2, the phrase "standard grill cross-members" is deemed to be vague and indefinite.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11-14 and 16-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by either Bower or Case.

Both Bower and Case show cooking tongs that contain all of the structural limitations as broadly set forth in the above claims including jaw tines which are spaced to fit between the cross members of certain grills.

4. Claims 11-20, as understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Wertz.

Art Unit: 3102

Wertz shows a pair of tongs comprising a first tong element (1,5), a second tong element (2), and a third tong element (6).

It is pointed out that the specific intended use of the apparatus (i.e. gripping and releasing a food item) is not patentably significant.

5. Claim 1 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

6. Claims 2-7 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

7. Claims 8-10 are allowable over the prior art of record.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

First shows it old and well known to space the tines of a cooking utensil such that they fit between the cross members of a grill.

Bernier, Spangler, and Wiesenfeld all show tongs having more than two tong elements.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean Kramer whose telephone number is (703) 308-1113 .

  
5-20-96  
DEAN J. KRAMER  
PATENT EXAMINER  
GROUP 3100

djk  
May 20, 1996